

Notice of Allowability

Application No.

10/075,909

Applicant(s)

BARVIAN ET AL.

Examiner

Tamthom N. Truong

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment of 3-7-05.
2. ☒ The allowed claim(s) is/are 9,11,15, 22-24 and 26-28.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 3-7-05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Allowable Subject Matter

Applicant's amendment of 3-07-05 has been fully considered. The amendment has placed the application in condition for allowance by canceling claims 1-8, 10, 16-21, 25, and deleting the species having "benzylamide" as a substituent. Thus, the previous 103 rejection is withdrawn herein. New claims 26-28 are drawn to a method of treating inflammation, osteoarthritis, and rheumatoid arthritis, which is not taught by **Baader et. al.**

Claim 9 is directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claim 15, directed to the pharmaceutical composition of the patentable product, previously withdrawn from consideration as a result of a restriction requirement, is now subject to being rejoined.

With no other outstanding rejections, pending claims 9, 11, 15, 22-24 and 26-28 are allowed.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The invention is drawn to compounds of substituted *pyrimidine-4,6-dicarboxylic acid* of Formula IV, pharmaceutical composition thereof as well as method of treating inflammation, osteoarthritis, and rheumatoid arthritis using said compounds. The closest prior art, **Baader et. al.** (US'317), teaches a compound of *Pyrimidine-4,6-dicarboxylic acid*

dibenzylamide. However, said compound is used as a fibrosuppressant and immunosuppressant, and not used to treat inflammation, osteoarthritis, and rheumatoid arthritis. Therefore, the teaching of Baader et. al. does not provide motivation for one skilled in the art to use said compounds or derivatives thereof in the methods recited in claims 26-28.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

References cited on PTO-892

Although references cited on PTO-892 teach compounds relevant to new claims 26-28, their effective filing dates do not antedate the effective filing date of this application. Therefore, they are not competent prior arts.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-F (10:00-6:30).

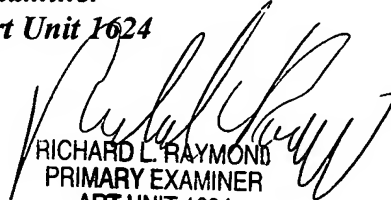
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4-6-05


Tamthom N. Truong
Examiner
Art Unit 1624


RICHARD L. RAYMOND
PRIMARY EXAMINER
ART UNIT 1624